

AMENDED IN ASSEMBLY APRIL 28, 2010

AMENDED IN ASSEMBLY APRIL 5, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

## ASSEMBLY BILL

**No. 2437**

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**Introduced by Assembly Member V. Manuel Perez**

February 19, 2010

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An act to *amend Sections 91502 and 91558 of, and to add Article 6* (commencing with Section 91600) to Chapter 1 of Title 10 of, the Government Code, relating to economic development.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2437, as amended, V. Manuel Perez. State government: economic development.

The California Industrial Development Financing Act authorizes cities, counties, cities and counties, and redevelopment agencies to establish industrial development authorities that are authorized to issue industrial development bonds, the proceeds of which may be used to fund capital projects of private enterprise under terms and conditions specified in the act. That act establishes the California Industrial Development Financing Advisory Commission and grants it various powers relating to industrial development bonds.

This bill, the California Manufacturing Competitiveness Act of 2010, would ~~require~~ *authorize* the commission to establish the California Manufacturing Competitiveness Loan and Loan Guarantee Program for the purpose of attracting, retaining, and expanding *large* manufacturing facilities ~~with more than 200 employees~~, and *would require the commission to establish* guidelines for the implementation of the program, *as specified*. The bill would require the commission to

provide for the development and ~~implementation~~ *administration* of the program application and evaluation process, and would require that applicants to the program demonstrate that they meet specified requirements. *The bill would also require each applicant to pay a nonrefundable application fee of \$5,000 and an administrative fee equal to 0.5% of the total requested guarantee amount. The bill would specify that only companies with at least 200 employees are eligible to receive assistance under the program.*

The bill would also create the Manufacturing Program Account within the Industrial Development Fund. *The bill would prohibit the commission from commencing the program prior to its adoption of a resolution finding that there is sufficient money in the account to cover the costs of implementing the program.* The bill would allow moneys in the account to be paid to a lending institution or financial company that will act as trustee of the funds, with the approval of the Department of Finance. ~~The fund bill would also be required~~ *require the account to pay for specified direct loans, which the bill would limit to a maximum amount of \$5,000,000 under the program, and defaulted loan guarantees, which the bill would limit to a maximum amount of \$10,000,000 under the program. The bill would further require the above-described application fees to be deposited in the account to ensure that funds are available to the state for the sole purpose of administration of the program.*

The bill would require the commission, beginning October 1, 2012, and annually thereafter, to post on its Internet Web site and provide the Legislature with a report on the program's activities and impact on the manufacturing industry, and on the state's economy generally.

The bill would provide that its provisions only remain in effect until January 1, 2016, and as of that date are repealed.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 91502 of the Government Code is
- 2     amended to read:
- 3     91502. It is the purpose of this title to carry out and make
- 4     effective the findings of the Legislature, and to that end, to provide
- 5     business with ~~an alternative method~~ *alternative methods* of
- 6     financing in acquiring, constructing, or rehabilitating facilities,

1 including, but not limited to, equipment and furnishings, in  
2 accordance with the criteria set forth in Section 91502.1, all to the  
3 mutual benefit of the people of the state and to protect their health,  
4 welfare, and safety.

5 *SEC. 2. Section 91558 of the Government Code is amended to*  
6 *read:*

7 91558. (a) The commission may, upon request of two or more  
8 authorities, in order to share expenses and facilitate bond issuance,  
9 act as a pooling agent to issue bonds on a joint or composite basis  
10 for companies which have applied for financing to the participating  
11 authorities. Authorities shall enter into written agreements with  
12 the commission specifying the projects which are to be delegated  
13 to the commission for financing pursuant to this section.

14 (b) Prior to issuance of any bonds pursuant to this section, the  
15 authority and public agency shall have completed the procedures  
16 required by Section 91530.

17 (c) The commission may issue bonds as requested and  
18 authorized by this section. For these purposes, the commission is  
19 granted all of the powers of an authority and may enter into project  
20 agreements and take all steps toward the sale, issuance, and security  
21 of bonds in the same manner as authorities may do. The resolution  
22 required by Section 91537 shall be adopted by the commission  
23 rather than by an authority.

24 (d) *The commission may make loans or lines of credit available*  
25 *to companies, directly or through a contract with a participating*  
26 *financial institution, for the purpose of acquiring, constructing,*  
27 *or rehabilitating facilities or portions thereof, including, but not*  
28 *limited to, equipment and furnishings, pursuant to Article 6*  
29 *(commencing with Section 91600), all to the mutual benefit of the*  
30 *people of the state and to protect their health, welfare, and safety.*

31 **SECTION 1.**

32 *SEC. 3. Article 6 (commencing with Section 91600) is added*  
33 *to Chapter 1 of Title 10 of the Government Code, to read:*

34  
35 Article 6. California Manufacturing Competitiveness Act of  
36 2010  
37

38 91600. This act may be cited as the California Manufacturing  
39 Competitiveness Act of 2010.

1 91601. (a) The Legislature finds and declares all of the  
2 following:

3 (1) California is one of the largest and most diverse economies  
4 in the world, with a state gross domestic product (GDP) of over  
5 \$1.8 trillion in 2008. Based on figures from the International  
6 Monetary Fund, if California were an independent nation it would  
7 rank as the eighth largest economy in the world.

8 (2) Historically, the state's significance in the global marketplace  
9 resulted from a variety of factors, including: its strategic west coast  
10 location that provides direct access to the growing markets in Asia;  
11 its economically diverse regional economies; its large, ethnically  
12 diverse population, representing both a ready workforce and  
13 significant consumer base; its access to a wide variety of venture  
14 and other private capital; its broad base of small- and medium-sized  
15 businesses that support the global manufacturing supply chain;  
16 and its culture of innovation and entrepreneurship, particularly in  
17 the area of high technology.

18 (3) Historically, economic growth in California has outpaced  
19 the economic growth rate of the nation as a whole, and the state  
20 has led the nation in export-related jobs, business startups, and  
21 innovation. However, since the subprime home mortgage crisis in  
22 2007, California communities have struggled. With the increasing  
23 rates of home foreclosure and the tightening of the credit markets,  
24 many businesses have found their existing lines of credit  
25 unaccessible. Significant drops in consumer spending have led to  
26 workforce reductions and business bankruptcies.

27 (4) For much of 2009, the number of unemployed workers rose  
28 by 40,000 to 60,000 per month, and the year ended with 2.25  
29 million unemployed California workers. While California may  
30 have emerged from the recession in the final quarter of 2009,  
31 unemployment is expected to remain high throughout 2010 and  
32 2011. Without specific intervention to support job creation and  
33 business expansion, many regions of California will be very slow  
34 to recover.

35 (5) Further, as California moves forward from this recession, it  
36 is important that the state support the recovery of industries that  
37 provide quality jobs, including manufacturing industries. A robust  
38 manufacturing sector offers many benefits to the state, including  
39 high-wage jobs, a basis for international trade, and one of the  
40 highest multiplier effects on other industries and businesses. It has

1 been estimated that for every job created in manufacturing, two  
2 and a half jobs are supported in other industry sectors. For instance,  
3 in the electronic computer manufacturing industry, the multiplier  
4 effect is 16 to one.

5 (6) Manufacturing employers and other large employers in  
6 California, however, face many challenges in maintaining global  
7 and domestic competitiveness, including maintaining a skilled  
8 workforce and cost-effective productivity in the face of lower  
9 safety and wage standards in emerging foreign markets.

10 (b) It is therefore the intent of the Legislature to strengthen the  
11 manufacturing capacity of California through the implementation  
12 of the California Manufacturing Competitiveness Act of 2010.  
13 The act will provide the framework and focus to retool and expand  
14 California's manufacturing facilities, support a vibrant logistics  
15 network, and retain and create more quality jobs.

16 91602. Unless the context requires otherwise, for the purposes  
17 of this article, the following terms shall have the following  
18 meanings:

19 (a) "Administration expenses" means the reasonable and  
20 necessary expenses incurred by a commission in the administration  
21 of this title, including, without limitation, the fees and costs of  
22 paying agents, trustees, attorneys, consultants, and others.

23 (b) "Commission" means the California Industrial Development  
24 Financing Advisory Commission established pursuant to Article  
25 3 (commencing with Section 91550).

26 (c) "Company" means a person, partnership, corporation,  
27 whether for profit or not, limited liability company, trust, or other  
28 private enterprise of whatever legal form, for which a project is  
29 undertaken or proposed to be undertaken pursuant to this title or  
30 which is in possession of property owned by an authority, and may  
31 include more than a single enterprise.

32 (d) "Cost" as applied to any project, may include all of the  
33 following:

34 (1) The cost of construction, improvement, repair, rehabilitation,  
35 and reconstruction.

36 (2) The cost of acquisition, including rights in land and other  
37 property, both real and personal and improved and unimproved,  
38 and franchises, and disposal rights.

39 (3) The cost of demolishing, removing, or relocating any  
40 building or structures on lands so acquired, including the cost of

1 acquiring any lands to which the buildings or structures may be  
2 moved or relocated.

3 (4) The cost of machinery, equipment, and furnishings, of  
4 engineering and architectural surveys, plans, and specifications,  
5 and of transportation and storage until the facility is operational.

6 (5) The cost of agents or consultants, including, without  
7 limitation, legal, financial, engineering, accounting, and auditing  
8 costs, necessary or incident to a project and ~~of~~ the determination  
9 as to the feasibility or practicability of undertaking the project.

10 (6) The cost of acquiring or refinancing existing obligations  
11 incident to the undertaking and carrying out, including the  
12 financing, of a project, and the reimbursement to any governmental  
13 entity or agency, or any company, of expenditures made by or on  
14 behalf of the entity, agency, or company that are costs of the project  
15 hereunder, without regard to whether or not the expenditures may  
16 have been made before or after the adoption of a resolution of  
17 intention with respect to that project by an authority.

18 (7) The cost of making relocation assistance payments as  
19 provided by Chapter 16 (commencing with Section 7260) of  
20 Division 7 of Title 1.

21 (8) *The cost of procuring raw materials and finished goods that*  
22 *become integral to the property as a result of construction,*  
23 *improvement, repair, rehabilitation, or reconstruction.*

24 (e) “Governing body” means the board of supervisors, city  
25 council, or board of directors of a redevelopment agency, as the  
26 case may be.

27 (f) “Indenture” means any mortgage, deed of trust, trust  
28 indenture, security agreement, or other instrument relating to  
29 establishing a lien or security interest in, or on, property, any pledge  
30 or other instrument relating to the possession of property, and any  
31 assignment or other instrument relating to establishing any right,  
32 title, or interest in, or related to, property, including the revenues  
33 therefrom, given by an authority to a corporate trustee, which may  
34 be any trust company or bank having the powers of a trust company  
35 within or without the state, or bondholder or agent, for the security  
36 of its bonds and the benefit of the bondholders.

37 (g) “Manufacturing Program Account” means the account  
38 established within the Industrial Development Fund for moneys  
39 which are available for direct loans and loan guarantees. Moneys  
40 in this account are not subject to Section 91554.

1 (h) "Project" means the acquisition, construction, improvement,  
2 repair, rehabilitation, and reconstruction of facilities and the  
3 acquisition and rehabilitation of machinery, equipment, and  
4 furnishings, and the acquisition of engineering and architectural  
5 surveys, plans, and specifications, and all other necessary and  
6 related capital expenditures by the issuance of bonds upon the  
7 application of and to be repaid by payments from a company for  
8 the purposes of this title.

9 (i) "Project agreements" means the agreements between an  
10 authority and a company respecting a project, and may include,  
11 without limitation, leases, subleases, options, and installments or  
12 the contracts of purchase or sale, loan, or guaranty agreements,  
13 notes, mortgages, deeds of trust, and security agreements.

14 (j) (1) "Property" means any land, air rights, water rights,  
15 disposal rights, improvements, buildings or other structures, and  
16 any personal property, tangible or intangible, and includes, but is  
17 not limited to, machinery and equipment, whether or not in  
18 existence or under construction, and interests in any of the  
19 foregoing, or promissory notes or other obligations of any kind  
20 respecting such interests.

21 (2) Property also means property suitable for one or more of  
22 the activities or uses described below:

23 (A) Industrial uses including, without limitation, assembling,  
24 fabricating, manufacturing, processing, or warehousing activities  
25 with respect to any products of agriculture, forestry, mining, or  
26 ~~manufacture~~ *manufacturing*, if these activities have demonstrated  
27 ~~job creation~~ *job-creation* or retention potential.

28 (B) Energy development, production, collection, or conversion  
29 from one form of energy to another.

30 (C) Research and development activities relating to commerce  
31 or industry, including, without limitation, professional,  
32 administrative, and scientific office and laboratory activities or  
33 uses.

34 (D) Processing or manufacturing recycled or reused products  
35 and materials by manufacturing facilities.

36 (E) Business activities with the purpose of creating or producing  
37 intangible property.

38 (F) Airport, dock, wharf, or mass commuting activities, or  
39 storage or training activities related to any of those activities—  
40 ~~is~~ *are* prohibited unless the property acquired is suitable for one or

1 more of the activities described in ~~subdivisions (a) to (e)~~  
2 *subparagraphs (A) to (E)*, inclusive.

3 (G) Sewage or solid waste disposal activities or electric energy  
4 or gas furnishing activities ~~is~~ *are* prohibited unless the property  
5 acquired is suitable for one or more of the activities described in  
6 ~~subdivisions (a) to (e)~~ *subparagraphs (A) to (E)*, inclusive.

7 (H) Water furnishing activities ~~is~~ *are* prohibited unless the  
8 property acquired is suitable for one or more of the activities  
9 described in ~~subdivisions (a) to (e)~~ *subparagraphs (A) to (E)*,  
10 inclusive.

11 (k) “Public agency” means any city, county, city and county,  
12 or redevelopment agency.

13 (l) “Revenues” means all rents, purchase payments, and other  
14 income derived from, or with respect to, the sale, lease, or other  
15 voluntary or involuntary disposition of, or repayment of loans with  
16 respect to, property, bond proceeds, and any receipts derived from  
17 the deposit or investment of any income or proceeds in the account,  
18 but does not include receipts designated to cover administration  
19 expenses.

20 91603. (a) The commission ~~shall~~ *may* establish the California  
21 Manufacturing Competitiveness Loan and Loan Guarantee Program  
22 for the purpose of attracting, retaining, and expanding *large*  
23 manufacturing facilities ~~with more than 200 employees~~. The  
24 commission shall establish guidelines for the implementation of  
25 this program consistent with this article. *The commission shall not*  
26 *commence operation of the program prior to adopting a resolution*  
27 *finding that there is sufficient money in the Manufacturing Program*  
28 *Account, established pursuant to Section 91604, to cover the costs*  
29 *of implementing the program, including, but not limited to,*  
30 *appropriate oversight costs.*

31 (b) In designing the California Manufacturing Competitiveness  
32 Loan and Loan Guarantee Program, the commission shall develop  
33 a program that meets all of the following objectives:

34 (1) Encourages the development of the state’s long-term  
35 manufacturing capacity.

36 (2) Creates jobs through the support of retooling and expansion  
37 of manufacturing facilities.

38 (3) Prioritizes assistance to manufacturers who consistently pay  
39 the highest wages based on the average weekly wage rate for their  
40 industry subsector and ~~pay~~ health benefits.



1 (4) Allows manufacturers to access funds under terms and  
2 conditions which would not otherwise be available in the private  
3 market.

4 (5) Prioritizes assistance to applications that are jointly submitted  
5 by management and the union at the facility or the union pending  
6 representation of workers at the facility.

7 (6) Assists manufacturers to cost effectively respond to energy  
8 efficiency regulations and new technologies.

9 (c) The commission shall provide for the development and  
10 ~~implementation~~ *administration* of the application, review, and  
11 evaluation process for the program, including, but not limited to,  
12 defining the eligibility standards, rating and ranking criteria, and  
13 other appropriate policies and procedures for implementing a direct  
14 loan and guarantee ~~programs~~ *program* subject to the following  
15 provisions:

16 (1) The maximum loan limit shall be five million dollars  
17 (\$5,000,000). The maximum loan guarantee ~~about~~ *amount* shall  
18 be ~~ten thousand dollars (\$10,000)~~ *million dollars (\$10,000,000)*.

19 (2) *Only companies with at least 200 employees shall be eligible*  
20 *to receive assistance under the program.*

21 ~~(2)~~

22 (3) All loan and loan guarantee applicants shall demonstrate  
23 that they will have the ability to repay the loans.

24 ~~(3)~~

25 (4) Loans may be provided at terms and conditions below market  
26 to the extent that the overall program remains financially viable.

27 ~~(4)~~

28 (5) Applicants must demonstrate they are in compliance with  
29 applicable federal, state, and local laws and regulations, or that  
30 the project for which they are requesting funding will bring them  
31 into compliance.

32 ~~(5) Loans~~

33 (6) *Outstanding loans* must be paid in full six months prior to  
34 a relocation of a facility outside of California. If the loan or loan  
35 guarantee included a subsidized amount, that amount must also  
36 be repaid subject to a sliding scale adopted by the commission.

37 ~~(6) All applicants~~

38 (7) *Each applicant* must agree to annually report to the  
39 commission on total capital investments made by the company  
40 and total employment, including wage levels by type of work, in

1 the prior year and the following two years. The applicant shall also  
2 estimate the number of jobs created or retained through the  
3 provision of this state assistance, as well as provide other  
4 appropriate performance data, as determined by the commission.

5 (d) In addition to any other requirements in this article, ~~all~~  
6 ~~applicants shall demonstrate that they meet~~ *each applicant shall*  
7 *demonstrate that it meets* all of the following requirements:

8 (1) The facility or facilities where the moneys will be expended  
9 or benefit are located in the state.

10 (2) The moneys being awarded will be used to create or retain  
11 jobs in the ~~State of California~~ *state*.

12 (3) ~~Wages for employees in California~~ *That wages the applicant*  
13 *pays its employees in the state* are on average, equal to or more  
14 than the average weekly wage rate for similar workers in the same  
15 industry subsector.

16 (4) ~~Provides~~ *That the applicant provides* health insurance  
17 benefits for all full-time employees.

18 (5) ~~The employer's~~ *applicant's* turnover rate has not exceeded  
19 20 percent annually at any facility where moneys obtained through  
20 the program will be used.

21 (e) *Each applicant shall pay a nonrefundable application fee*  
22 *of five thousand dollars (\$5,000) and an administrative fee equal*  
23 *to one-half of 1 percent of the total requested guarantee amount.*  
24 *These moneys shall be deposited directly into the Manufacturing*  
25 *Program Account, established pursuant to Section 91604, for the*  
26 *purpose of ensuring that funds are available to the state for the*  
27 *sole purpose of administration of the program.*

28 91604. (a) There is hereby created within the Industrial  
29 Development Fund, an account called the Manufacturing Program  
30 Account. Upon appropriation by the Legislature, all or a portion  
31 of the funds in the account may be allocated by the commission,  
32 with the approval of the Department of Finance, to a lending  
33 institution or financial company that will act as trustee of the funds.  
34 The fund shall be used to pay for direct loans and defaulted loan  
35 guarantees issued pursuant to Article 6 (commencing with Section  
36 ~~91575.3~~, 91600), administrative costs of the commission, and  
37 those costs necessary to protect a real property interest in a  
38 defaulted loan or guarantee.

39 (b) All loan repayments, interest, and royalties shall be deposited  
40 back into the Manufacturing Program Account.

1     (c) *The commission shall not commence operation of the*  
2 *program prior to adopting a resolution finding that there is*  
3 *sufficient money in the account to cover the costs of implementing*  
4 *the program, including, but not limited to, appropriate oversight*  
5 *costs.*

6     ~~(e)~~

7     (d) Moneys in the account shall not be subject to Section 91554.  
8     91605. (a) Beginning October 1, 2012, and annually thereafter,  
9 the commission shall post on its Internet Web site or provide the  
10 Legislature with a report, whichever is more cost effective, on the  
11 program's activities and impact on the manufacturing industry and  
12 on the state's economy, in general.

13     ~~(b)~~

14     (e) At a minimum, the information provided pursuant to  
15 subdivision (a) shall include the following:

16     (1) The total amount of moneys in the Manufacturing Program  
17 Account, at the beginning of the fiscal year and at the end of the  
18 fiscal year.

19     (2) The number of projects funded and the number of  
20 manufacturers assisted.

21     (3) The number of jobs created and the number of jobs retained  
22 through program assistance in each of the fiscal years.

23     (4) The amount of investments made by the manufacturer in  
24 the prior year to their assistance and next two years.

25     (5) The amount of federal, state, and local taxes paid by the  
26 ~~businesses~~ *companies* in aggregate. Information on publicly held  
27 companies shall also be reported separately.

28     91606. This article shall remain in effect only until January 1,  
29 2016, and as of that date is repealed, unless a later enacted statute,  
30 that is enacted before January 1, 2016, deletes or extends that date.